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Attorney for SAMUEL M. KAAUWAI

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00248 DAE
)	
Plaintiff,)	MOTION TO WITHDRAW AS
)	COUNSEL
vs.)	
)	
SAMUEL M. KAAUWAI,)	
)	
Defendant.)	
_____)	

MOTION TO WITHDRAW AS COUNSEL

COMES NOW Defendant SAMEUL M. KAAUWAI, by and through his counsel undersigned, and hereby moves this Honorable Court to withdraw as counsel due to a now apparent conflict of interest.

This motion is based upon the Sixth Amendment and the attached declaration of counsel.

DATED: Honolulu, Hawaii, January 17, 2007.

/s/Emmett E. Lee Loy _____
EMMETT E. LEE LOY
Attorney for Defendant
SAMEUL M. KAAUWAI

UNITED STATES OF AMERICA,)	CR. NO. 03-00560-01 (SOM)
)	
Plaintiff,)	DECLARATION OF COUNSEL
)	
vs.)	
)	
ROBERT LUM (1),)	
)	
Defendant.)	
_____)	

DECLARATION OF COUNSEL

I, EMMETT E. LEE LOY, hereby declare as follows:

1. I am counsel for defendant, ROBERT LUM (Mr. Lum), having been appointed pursuant to the Criminal Justice Act on or about October 12, 2004;
2. Your declarant has reviewed the files of this case extensively and met in person and discussed this case with Mr. Lum at the Federal Detention Center on 10/19/04, 11/1/04, 12/6/04, 1/5/05, 1/19/05, 2/18/05, 2/25/05, 3/7/05, 3/15/05, 3/31/05, 5/18/05, and 5/20/05, as well as during numerous telephone conversations from client;
3. On late Thursday afternoon, your Declarant did receive a telephone call from, and held a telephone conference with, Assistant U.S. Attorney Lou Bracco, and was informed that Mr. Lum would not be receiving a downward departure pursuant to an earlier plea agreement entered into on 11/18/05, at Mr. Lum's Change of Plea hearing and, as a result, Mr. Lum would face a mandatory 20 year sentence due to a prior state drug offense conviction;
4. Your Declarant went to the FDC Friday morning, May 20, 2005, to discuss this development with Mr. Lum;

5. During this discussion, Mr. Lum "fired" your declarant and indicated his desire for different counsel to proceed in representing Mr. Lum throughout the remainder of his case which is now set for sentencing on Monday, June 13, 2005, before the Honorable Susan Oki Mollway;
6. Mr. Lum has serious questions as to the professional decisions made by counsel relating to the handling of his case;
7. Due to these doubts, Mr. Lum no longer has confidence in his presently assigned attorney's ability to represent him adequately;
8. These doubts are making it impossible for Mr. Lum and your declarant to discuss his case and is actively interfering with counsel's ability to effectively represent Mr. Lum;
9. Mr. Lum is not happy about your Declarant's representation of Mr. Lum's interest in this matter;
10. Your Declarant and current Counsel believes that the attorney-client relationship is so badly damaged that it cannot be repaired. In addition, your declarant believes that a new attorney might actually be able to move this case forward in an orderly manner in that Mr. Lum may simply need to hear from another attorney.
11. That new counsel should be appointed from the CJA panel since Mr. Lum's indigent status has not changed.
12. The facts and statements set forth in the foregoing

document are true and correct to the best of my knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: Honolulu, Hawaii, May 23, 2005.

EMMETT E. LEE LOY
Attorney for Defendant
ROBERT LUM

CERTIFICATE OF SERVICE

I, EMMETT E. LEE LOY, hereby certify that a true and exact copy of the foregoing document was duly mailed and/or hand-delivered to the following on May 23 2005:

LOUIS A. BRACCO
Assistant United States Attorney
PJKK Federal Building
300 Ala Moana Boulevard, Room 6-100
Honolulu, Hawaii, 96850

Attorney for Plaintiff
UNITED STATES OF AMERICA

ROBERT LUM
Federal Detention Center
351 Elliot Street
Honolulu, Hawaii 96819

DATED: Honolulu, Hawaii, May 23, 2005.

EMMETT E. LEE LOY
Attorney for Defendant
ROBERT LUM